

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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STEVEN BELLO, As Administrator of the Goods, Chattels
and Credits of CHRISTOPHER ROBERT BELLO, Deceased,

Plaintiff,

NOTICE OF MOTION
TO REMAND

-against-

Civil No.: 07 CIV. 2931
(WP-4) (GAY)

CSX CORPORATION, CSX TRANSPORTATION, INC.,
DWIGHT NEILSEN and GARY KINGMAN,

Defendants.

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Relief Sought

In response to the Notice of Removal filed in this action, plaintiff, Steven Bello will move this Court before the Hon. George A. Yanthis, Magistrate Judge at the United States Courthouse for the Southern District of New York located at 300 Quarropas Street, White Plains, New York 10601 on a date and time to be determined by the Court, for an Order pursuant to 28 U.S.C. § 1447(c) remanding this action to the Supreme Court of the State of New York in and for the County of Rockland, the Court in which this action was pending before it was improperly removed upon the grounds that Removal was improper in that this Court lacks subject matter jurisdiction over this matter for the following reasons:

- i) there is not complete diversity of citizenship between the parties because plaintiff is a resident and citizen of the State of New York and defendants Dwight Neilsen and Gary Kingman are individuals and are also residents and citizens of the State of New York and
- ii) the Complaint does not present a claim or right arising under the Constitution, treaties, or laws of the United States within the meaning of 28 U.S.C. § 1331 in that this

matter involves claims for personal injury and Wrongful Death and is grounded solely and strictly on the common law and/or statutes of the State of New York.

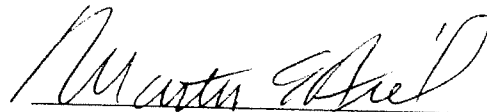
Plaintiff also seeks an award of all of the just costs and actual expenses including attorney's fees incurred as a result of the removal pursuant to 28 U.S.C. § 1447(c).

Motion Papers

The papers on which this Motion is based include this document, the Notice of Motion, the Certificate of Service, the affidavit of Martin E. Fiel sworn to on July 5, 2007 and the Exhibits annexed thereto, the Memorandum of Law in Support of Plaintiff's Motion to Remand and for costs, including, reasonable attorneys' fees filed concurrently herewith and the pleadings and the papers on file in this action.

Dated: New City, New York

July 5, 2007



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